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OFFICE OF PETITIONS

THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 39425
DENVER CO 80239-0425

In re Patent No. 7,689,485 : DECISION ON REQUEST
Kanekar, et al. : FOR
Issue Date: March 30, 2010 : RECONSIDERATION OF
Application No. 10/630,178 : PATENT TERM ADJUSTMENT
Filed: July 29, 2003 : and
Atty Docket No. **01935** : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 14, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, seven hundred and twenty-four (1,724) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and sixty (1,260) days is **GRANTED to the extent indicated herein.**¹

¹ The period of overlap between the "A" delay and the "B" delay is 575 days. It is noted that, in this case where no Request for Continued Examination was filed, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, from the filing date of the application to the issue date of the patent. It is further noted that "A" delays and "B" delays overlap only if such delays occur on the same calendar day. A review of the record reveals that the relevant periods of "A" delay began September 29, 2004, and ended November 5, 2007, with the second period of relevant "A" delay beginning July 5, 2008, and ending October 24, 2008. The period of "B" delay began July 30, 2006, and ended June 18, 2009. The periods of overlapping delay are: July 29, 2006 through November 5, 2007 (464 days), and July 5, 2008 through October 24, 2008 (111 days). Thus, the period of overlap between the "A" delay and the "B" delay is 575 days and the patent term adjustment is properly reduced by such.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges receipt of the \$200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are due.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, two hundred and sixty (1,260) days**.

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,689,485 B2

DATED : Mar. 30, 2010

INVENTOR(S) : Kanekar et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1835) days

Delete the phrase "by 1835 days" and insert – by 1260 days--